

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
RODNEY & DAWN CHESTNUT,

Plaintiffs,

Case No. 10-CIV-4244 (JS)(ARL)

-against-

WELLS FARGO BANK, N.A.,

Defendant.
----- X

**NOTICE TO PRO SE LITIGANT WHO OPPOSES A RULE 12
MOTION SUPPORTED BY MATTERS OUTSIDE THE PLEADINGS**

Defendant Wells Fargo Bank, N.A. hereby provides the following notice to Plaintiffs Rodney and Dawn Chestnut pursuant to Local Civil Rule 12.1:

The defendant in this case has moved to dismiss or for judgment on the pleadings pursuant to Rule 12(b) or 12(c) of the Federal Rules of Civil Procedure, and has submitted additional written materials. This means that the defendant has asked the court to decide this case without a trial, based on these written materials. You are warned that the Court may treat this motion as a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. For this reason, THE CLAIMS YOU ASSERT IN YOUR COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO THIS MOTION by filing sworn affidavits or other papers as required by Rule 56(e). An affidavit is a sworn statement of fact based on personal knowledge that would be admissible in evidence at trial. The full text of Rule 56 of the Federal Rules of Civil Procedure is attached.

In short, Rule 56 provides that you may NOT oppose the defendant's motion simply by relying upon the allegations in your complaint. Rather, you must submit evidence, such as witness statements or documents, countering the facts asserted by the defendant and raising

issues of fact for trial. Any witness statements must be in the form of affidavits. You may submit your own affidavit and/or the affidavits of others. You may submit affidavits that were prepared specifically in response to defendant's motion.

If you do not respond to the motion on time with affidavits or documentary evidence contradicting the facts asserted by the defendant, the court may accept defendant's factual assertions as true. Judgment may then be entered in defendant's favor without a trial.

If you have any questions, you may direct them to the Pro Se Office.

Dated: New York, New York
November 1, 2010

HOGAN LOVELLS US LLP

By: /s/ Renee Garcia
Allison J. Schoenthal
Victoria McKenney
Renee Garcia
875 Third Avenue
New York, New York 10022
Tel. (212) 918-3000
Fax. (212) 918-3100
allison.schoenthal@hoganlovells.com
victoria.mckenney@hoganlovells.com
renee.garcia@hoganlovells.com

*Attorneys for Defendant
Wells Fargo Bank N.A.*